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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,039	01/12/2001	Joseph Rinchuso	CE08395R	1866
22917	7590	02/05/2009		
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			EXAMINER HAILE, FEBEN	
			ART UNIT 2416	PAPER NUMBER
			NOTIFICATION DATE 02/05/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 09/760,039	Applicant(s) RINCHIUSO ET AL.	
	Examiner FEBEN HAILE	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. In view of amendment filed November 07, 2008, the status of the application is still pending with respect to claims 1-3 and 7-9, with claims 4-6 and 13-14 being cancelled, and 10-12 being withdrawn from consideration due to restrictive non-election.

2. The amendment filed is insufficient to overcome the rejection of claims based upon Koo et al. (US 6,804,219), Hjelm et al. (US 6,529,497), Lohtia et al. (US 2002/0082033), and Pankaj et al. (US 6,229,795) as set forth in this new Office action because: the Applicants claimed invention fails to clarify a distinction over the cited references, thus the subject matter is not patentable.

Response to Arguments

3. Applicant's arguments filed November 07, 2008 have been fully considered but they are not persuasive.

The Examiner thanks the Applicants acknowledgement of Lohtia as valid prior art under 35 U.S.C. 103(a). Furthermore, the Examiner notes unpublished provisional applications claiming benefit is accessible to any person pursuant to § 1.14(a)(v).

The Applicant respectfully traverses that Lohtia does not suggest delaying TBF termination by transmitting dummy data. The Examiner respectfully disagrees with the Applicant. Lohtia teaches that a temporary block flow is maintained for a predetermined wait period even though the end of data transmission is detected. Furthermore, after

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the predetermined wait period, an indication is provided regarding the end of data transmission such that the temporary block flow can be released at this time. This indication is in the form of exchanging a control message. At the time the invention was made, it would have been obvious to one of ordinary skill in the art that the control message could be equivalent to dummy data because it does not have actual information that the devices were trying to exchange. Furthermore, the control message could include a "dummy" variable that takes on the values of 0 or 1 to indicate the absence or presence of some categorical effect, i.e. end of data transmission. Therefore as the claims are interpreted in their broadest sense, the Examiner believes that Lohtia indeed does render the Applicant's invention obvious.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koo et al. (US 6,804,219), hereinafter referred to as Koo, in view of Hjelm et al. (US 6,529,497), hereinafter referred to as Hjelm, in view of Pankaj et al. (US 6,229,795), hereinafter referred to as Pankaj, in view of Lohtia et al. (US 2002/0082033), hereinafter referred to as Lohtia.

Regarding claim 1, Koo discloses transmitting data over a wireless data channel at a data rate (**figure 2 unit 200; column 2 line 38; in an active state, data is transmitted on a dedicated traffic channel at a rate**); determining that no more data need to be transmitted (**column 2 lines 43-46; data transmission is discontinued**).

Koo fails to explicitly suggest delaying dropping the data channel for a time period based on the data rate.

Hjelm teaches delaying dropping the data channel for a time period (**column 9 lines 53-67; a method for addressing a capacity problem by providing timers for channels comprising; starting a timer when there is no more traffic ongoing on a channel, i.e. data rate=0, and then releasing that channel when the timer expires**), (**column 10 lines 6; the timer values can be set dynamically either per packet control unit or per cell**).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method for releasing a channel taught by Hjelm into the state transition method disclosed by Koo. The motivation for such a modification is to efficiently utilize the idle capacity for data transmission even if the capacity allocated for data service is not being used when the amount of data is not known before the point of transmission.

Koo, Hjelm, and/or their combination fail to explicitly suggest wherein the time period is based on the data rate.

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Pankaj teaches wherein the time period is based on the data rate **(column 12 lines 38-61; the method of dynamically determining a timer interval based upon data rate)**.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of maintaining a timer taught by Pankaj into the state transition method disclosed by Koo as modified by the method for releasing a channel taught by Hjelm. The motivation for such a modification is a system and method of allocating communication resources among subscribers to a communication network efficiently and fairly according to a network policy of allocating the communication resources among the subscribers.

Koo, Hjelm, Pankaj, and/or their combination fail to suggest establishing a temporary block flow (TBF) to transmit data over the wireless data channel; and delaying termination of the TBF by transmitting dummy data over the wireless data channel.

Lohtia discloses establishing a temporary block flow (TBF) to transmit data over the wireless data channel **(page 2 paragraph 0024; a method for establishing a temporary block flow (TBF) between a mobile station and base station for signaling purposes)** and delaying termination of the TBF by transmitting dummy data over the wireless data channel **(page 3 paragraph 0028-0029; the base station and mobile station send messages to each other when the end of a TBF is detected before releasing the TBF)**.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of Lohtia into the state transition method disclosed by Koo as modified by the method for releasing a channel taught by Hjelm and the method of maintaining a timer taught by Pankaj. The motivation being to enhance the performance of bursty packet based communications over a wireless network.

Regarding claim 2, Koo discloses the step of transmitting data over the wireless data channel comprises the step of transmitting data over a Code Division Multiple Access Supplemental Channel (**column 1 lines 49-54; communication between a base station and mobile station use dedicated channels such as a supplemental channel**).

Regarding claim 3, Pankaj discloses wherein the time period is proportional to the data rate (**column 12 lines 38-61; the method of dynamically determining a timer interval based upon data rate**).

Regarding claim 7, Koo discloses channel circuitry for transmitting data at a data rate (**figure 2 unit 200; column 2 line 38; in an active state, data is transmitted on a dedicated traffic channel at a rate**).

Koo fails to explicitly suggest a timer coupled to the channel circuitry, wherein the timer delays deactivation of the channel circuitry after data transmission for a period of time.

Hjelm teaches a timer coupled to the channel circuitry (**column 9 lines 53-57; a method for addressing a capacity problem by providing timers for channels**

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comprising) wherein the timer delays deactivation of the channel circuitry after data transmission for a period of time **(column 9 lines 57-67; starting a timer when there is no more traffic ongoing on a channel, i.e. data rate=0, and then releasing that channel when the timer expires).**

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method for releasing a channel taught by Hjelm into the state transition method disclosed by Koo. The motivation for such a modification is to efficiently utilize the idle capacity for data transmission even if the capacity allocated for data service is not being used when the amount of data is not known before the point of transmission.

Koo, Hjelm, and/or their combination fail to explicitly wherein the period of time is based on the data rate.

Pankaj teaches wherein the period of time is based on the data rate **(column 12 lines 38-61; the method of dynamically determining a timer interval based upon data rate).**

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of maintaining a timer taught by Pankaj into the state transition method disclosed by Koo as modified by the method for releasing a channel taught by Hjelm. The motivation for such a modification is a system and method of allocating communication resources among subscribers to a communication network efficiently and fairly according to a network policy of allocating the communication resources among the subscribers.

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Koo, Hjelm, Pankaj, and/or their combination fail to suggest establishing a temporary block flow (TBF) to transmit data over the wireless data channel; and delaying termination of the TBF by transmitting dummy data over the wireless data channel.

Lohtia discloses establishing a temporary block flow (TBF) to transmit data over the wireless data channel (**page 2 paragraph 0024; a method for establishing a temporary block flow (TBF) between a mobile station and base station for signaling purposes**) and delaying termination of the TBF by transmitting dummy data over the wireless data channel (**page 3 paragraph 0028-0029; the base station and mobile station send messages to each other when the end of a TBF is detected before releasing the TBF**).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the method of Lohtia into the state transition method disclosed by Koo as modified by the method for releasing a channel taught by Hjelm and the method of maintaining a timer taught by Pankaj. The motivation being to enhance the performance of bursty packet based communications over a wireless network.

Regarding claim 8, Pankaj discloses wherein the period of time is proportional to the data rate (**column 12 lines 38-61; the method of dynamically determining a timer interval based upon data rate**).

Regarding claim 9, Koo discloses wherein the channel circuitry comprises CDMA fundamental channel circuitry (**column 1 lines 49-54; communication between**

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a base station and mobile station use dedicated channels such as a fundamental channel).

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FEBEN HAILE whose telephone number is (571)272-3072. The examiner can normally be reached on 10:00 am-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Aung Moe can be reached on (571)272-7314. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aung S. Moe/
Supervisory Patent Examiner, Art Unit 2416

FEBEN HAILE
Examiner
Art Unit 2416